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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/128,721 08/04/98 CARROLL

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023456 IM52/0522  
WADDEY & PATTERSON  
414 UNION STREET, SUITE 2020  
BANK OF AMERICA PLAZA  
NASHVILLE TN 37219

EXAMINER

GUARRIELLO, J

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/128721

Applicant(s)

Carro 11

Examiner

John Guarriello

Group Art Unit

1791

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 5/3/2001
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-31, 33-42 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-31, 33-42 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Interview Summary, PTO-413 # 11
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

15. The examiner acknowledges papers # 12 and 13, the extension of time and the CPA of 4/19/200, and the preliminary amendment of 5/3/2001.

#### ***Claim Rejections - 35 USC § 112***

16. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

17. Claims 1-31 and 33-42 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Components of the fabric which are not stated in the claims and are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). It is the examiner's position that the claimed invention directed to the fabric which has multiple layers and a coating on the layers does not describe or state what the fabric is and the fact that the specification on page 6 teaches

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that the thermal plastic coatings are **generally halogen free**, lines 6-8.

Furthermore, the specification teaches that the olefin coating materials exhibit an inherent thermal plastic affinity to the chemical barrier substrate, page 6, lines 1-6.

18. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

19. Claims 1-31 and 33-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, is not clear what encompasses “fabric” since no elements of the “fabric” are stated only approximate number of the layers and/or coatings on the layers of the “fabric”. Furthermore, it is not clear what the 25%

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improvement is compared since there is no specificity of the ranges of the aspects of the improvement.

In claim 13, is not clear what encompasses “fabric” for the same reasons given for claim 1.

In claim 30, is not clear what encompasses “fabric” for the same reasons given for claim 1.

In claim 37, is not clear what encompasses “fabric” for the same reasons given for claim 1.

***Claim Rejections - 35 USC § 102***

20. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3, 30, 31 and 37, 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Langley 5,948,708.

Langley describes a multilayer composite which is a composite chemical barrier fabric, (see abstract). Langley describes chemical barrier fabric with multilayer, (column 2, lines 51-59; column 3, lines 8-67; column 4, lines 1-17; column 5, lines 58-67). Langley describes the essential limitations of the claimed invention. It is the examiner's position that the claimed invention is a fabric with multiple layers and a coating on the layer of fabric. Claims lack novelty.

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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22. Claims 4-29, 33-36, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauer et al. 5,626,947.

Hauer describes composite chemical barrier fabric with a barrier film laminated to a flexible substrate using thermoplastic resin and topcoating the barrier film, (see abstract). Hauer describes a multiple layer structure of chemical barrier fabric, (column 5, lines 12-55; column 6, lines 22-44).

Hauer describes thickness about 0.4 to 3.0 mils, (column 6, lines 37-41).

Hauer describes the composite film barrier as mulilayer and can be slit, (column 7, lines 21-60). Hauer differs from the claimed invention because it is silent about the 25% improvement in puncture resistance and flex-crack resistance.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the layers of the chemical barrier fabric of Hauer motivated with the expectation that improvement of puncture resistance and flex-crack resistance would be improved and within the skill of the person in this art as evidenced by Hauer, column 8, lines 28-34.

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22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is (703) 308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris , can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



John J. Guarriello:gj

Patent Examiner

May 16, 2001

  
ELIZABETH M. COLE  
PRIMARY EXAMINER